 <p>Washington State Department of Social & Health Services</p> <p><i>Transforming lives</i></p>	<p align="center">IT PERSONAL SERVICE CONTRACT</p> <p align="center">Background Check System</p>		DSHS Contract Number: 1524-60145 <input type="checkbox"/> Resulting From Competition Number: [REDACTED] <input type="checkbox"/> Sole Source		
This Contract is between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is governed by chapter 43.19 and 43.105 RCW.		Contractor Contract Number: [REDACTED]			
CONTRACTOR NAME		CONTRACTOR doing business as (DBA)			
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER		
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS		
DSHS ADMINISTRATION Executive Administration	DSHS DIVISION Operation Support and Services Division		DSHS CONTRACT CODE 8900PC-24		
DSHS CONTACT NAME AND TITLE Sarah Pendleton Contract Manager		DSHS CONTACT ADDRESS 1115 Washington Street SE 2nd Floor Olympia, WA 98504			
DSHS CONTACT TELEPHONE (360)664-6050		DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS Sarah.Pendleton@dshs.wa.gov		
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		CFDA NUMBERS			
CONTRACT START DATE		CONTRACT END DATE			
CONTRACT MAXIMUM AMOUNT EXHIBITS. The following Exhibits are attached and are incorporated into this Contract by reference: <input checked="" type="checkbox"/> Exhibits (specify): Exhibit A - Data Security Requirements, Exhibit B – Performance Standards, Exhibit C – Performance Monitoring Report <input type="checkbox"/> No Exhibits.					
The terms and conditions of this Contract are an integration of and constitute the final, entire and exclusive understanding of the agreement between the parties, superseding and merging all previous agreements, writings, and communications between the parties made prior to or at the signing of this Contract. The parties signing below warrant they have read and understand this Contract, and have authority to enter into this Contract.					
CONTRACTOR SIGNATURE		PRINTED NAME AND TITLE	DATE SIGNED		
Draft - Please Do Not Sign		[REDACTED]			
DSHS SIGNATURE		PRINTED NAME AND TITLE	DATE SIGNED		
Draft - Please Do Not Sign		Sarah Pendleton, Contracts Manager			

General Terms and Conditions

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contract Services" means the DSHS central headquarters contracting office, or successor section or office.
 - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
 - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
 - d. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
 - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
 - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
 - g. "Deficiency" is a failure of a deliverable or service, or an omission, defect or deficiency in a Deliverable or Service, causing a failure to materially conform to its applicable specifications as outlined in this SOW, or a failure to materially conform to reasonable commercial, industry, state or federal standards for appearance, quality, functionality, or format.
 - h. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
 - i. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits.
 - j. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - k. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
 - l. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
 - m. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or

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sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.

- n. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
 - o. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
 - p. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
 - q. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
 - r. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
 - s. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.
2. **Amendment.** This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.
3. **Assignment.** The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.
4. **Billing Limitations.**
- a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
 - b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
 - c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.
5. **Compliance with Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.**

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- a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:
 - (1) as provided by law; or,
 - (2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
 - b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:
 - (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
 - (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
 - (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
 - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.
 - (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
 - (c) Verifying after transmittal that the fax was received by the intended recipient.
 - (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
 - (a) Use a Trusted System.
 - (b) Encrypt the Confidential Information, including:
 - i. Encrypting email and/or email attachments which contain the Confidential Information.
 - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.
- Note: If the DSHS Data Security Requirements Exhibit is attached to this contract, this item, 6.b.(4), is superseded by the language contained in the Exhibit.**
- (5) Send paper documents containing Confidential Information via a Trusted System.
 - (6) Following the requirements of the DSHS Data Security Requirements Exhibit A, if attached to this contract.
- c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.

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- d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.
 - e. Notification of Compromise or Potential Compromise. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
7. **Debarment Certification.** The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.
8. **Governing Law and Venue.** This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.
9. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
10. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
11. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.
- Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
12. **Order of Precedence.** The items listed below are incorporated by reference herein. In the event of an inconsistency in this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
- a. Applicable Federal and Washington State Statutes and Regulations;

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- b. All terms and conditions in this Contract including all Exhibits and Attachments.
- c. DSHS RFP 1524-577 dated November 9, 2015;
- d. Contractor's proposal (response to Request for Proposal), dated January 14, 2016;
- e. Project deliverables and written agreements that have been accepted or approved by the DSHS Executive Sponsor and the Contractor's Sponsor.

Any other provisions of the Contract incorporated by reference or otherwise.

- 13. Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the Contract remains valid and in full force and effect.

- 14. Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.

- 15. Contract Renegotiation, Suspension, or Termination Due to Change in Funding.**

If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:

- a. At DSHS's discretion, the Contract or Program Agreement may be renegotiated under the revised funding conditions.
- b. DSHS's discretion, DSHS may give notice to Contractor to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
 - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
 - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
 - (3) If the Contractor's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
- c. DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in

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this section is exercised.

16. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the DSHS Contracts Administrator or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

Additional General Terms and Conditions – IT Personal Service Contracts:

17. **Advance Payment.** DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Contract.
18. **Commencement of Work.** No work shall be performed by the Contractor until the Contract is executed by the Contractor and DSHS and received by DSHS.
19. **Construction.** The language in this Contract shall be interpreted as to its fair meaning and not strictly for or against any party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Contract.
20. **Contractor Certification Regarding Ethics.** The Contractor certifies that the Contractor is now, and shall remain, in compliance with Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Contract.
21. **Contractor Commitments, Warranties and Representations.** Any written commitment by the Contractor within the scope of this Contract shall be binding upon the Contractor. Failure of the Contractor to fulfill such a commitment may constitute breach and shall render the Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by the Contractor includes but is not limited to: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by the Contractor in its response to the solicitation resulting in this Contract ("Bid") or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Bid or used to effect the sale to DSHS.
22. **Disputes.**
- a. In the event a bona fide dispute concerning a question of fact arises between DSHS and the Contractor that cannot be resolved between the parties, either party may initiate the dispute resolution procedure provided herein.
 - b. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days (which shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington). The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.
 - (1) If the dispute cannot be resolved after three (3) Business Days, a dispute resolution panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the dispute resolution panel within

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the next three (3) Business Days.

(2) The dispute resolution panel will review the written descriptions of the dispute, gather additional information as needed, and render a written decision on the dispute in the shortest practical time.

(3) Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

- c. Unless irreparable harm will result, the parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.
- d. Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a dispute resolution panel whenever possible.
- e. Except to the extent that disclosure is required by applicable law or court order, all negotiations pursuant to this clause are confidential and shall be treated by the parties as statements made in compromise negotiations for purposes of the rules of evidence.
- f. DSHS and the Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.
- g. If the subject of the dispute is the amount due and payable by DSHS for services being provided by the Contractor, the Contractor shall continue providing services pending resolution of the dispute provided DSHS pays the Contractor the amount DSHS, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount the Contractor, in good faith, believes is due and payable.

23. Health and Safety. The Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health or safety of any DSHS client with whom the Contractor has contact.

24. Indemnification and Hold Harmless.

- a. The Contractor shall be responsible for and shall indemnify, defend, and hold DSHS harmless from any and all claims, costs, charges, penalties, demands, losses, liabilities, damages, judgments, or fines, of whatsoever kind of nature, arising out of or relating to a) the Contractor's or any Subcontractor's performance or failure to perform this Contract, or b) the acts or omissions of the Contractor or any Subcontractor.
- b. The Contractor's duty to indemnify, defend, and hold DSHS harmless from any and all claims, costs, charges, penalties, demands, losses, liabilities, damages, judgments, or fines shall include DSHS' personnel-related costs, reasonable attorney's fees, court costs, and all related expenses.
- c. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.
- d. Nothing in this term shall be construed as a modification or limitation on the Contractor's obligation to procure insurance in accordance with this Contract or the scope of said insurance.

25. Industrial Insurance Coverage. The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay

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premiums or penalties on behalf of its employees, as may be required by law, Agency may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Agency may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Agency under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

26. Limitation of Liability.

- a. The parties agree that neither the Contractor nor DSHS shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except as laid out in Exhibit B Liquidated Damages, a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections or any other conditions as are elsewhere agreed to herein between the parties. Damages resulting from termination for default or breaches of the Maintenance of Records clause are not consequential, incidental, indirect, or special damages as that term is used in this section.
- b. Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

27. Notice of Overpayment.

If the Contractor receives a Contractor overpayment notice or a letter communicating the existence of an overpayment from DSHS, the Contractor may protest the overpayment determination by requesting an adjudicative proceeding. The Contractor's request for an adjudicative proceeding must:

- a. Be *received* by the Office of Financial Recovery (OFR) at Post Office Box 9501, Olympia, Washington 98507-9501, within twenty-eight (28) calendar days of service of the notice;
- b. Be sent by certified mail (return receipt) or other manner that proves OFR received the request;
- c. Include a statement as to why the Contractor thinks the notice is incorrect; and
- d. Include a copy of the overpayment notice.

Timely and complete requests will be scheduled for a formal hearing by the Office of Administrative Hearings. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the overpayment dispute prior to the hearing.

Failure to provide OFR with a written request for a hearing within twenty-eight (28) days of service of a Contractor overpayment notice or other overpayment letter will result in an overpayment debt against the Contractor. DSHS may charge the Contractor interest and any costs associated with the collection of this overpayment. DSHS may collect an overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; or any other collection action available to DSHS to satisfy the overpayment debt.

28. Ownership/Rights in Data

- a. Both Custom Services and Commercial Off-The-Shelf material that is delivered under this Contract, but that does not originate therefrom ("Preexisting Material"), shall be transferred to DSHS with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such

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license shall be limited to the extent to which Contractor has a right to grant such a license. The Contractor shall exert all reasonable effort to advise DSHS at the time of delivery of Preexisting Material furnished under this Contract, of all known or potential infringements of publicity, privacy or of intellectual property contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. DSHS shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by the Contractor with respect to any Preexisting Material delivered under this Contract. DSHS shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by the Contractor.

- b. Custom Services. If this Contract involves custom services, the below sections (b)(1) through (4) apply.
 - (1) DSHS and the Contractor agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 et seq, and shall be owned by DSHS. The Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. For purposes of this contract, "Software" shall mean the object code version of computer programs licensed pursuant to this Contract. Software also means the source code version, where provided by the Contractor. Embedded code, firmware, internal code, microcode, and any other term referring to software residing in the equipment that is necessary for the proper operation of the equipment is not included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.
 - (2) If for any reason the Work Product would not be considered a work made for hire under applicable law, the Contractor assigns and transfers to DSHS the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.
 - (3) The Contractor shall execute all documents and perform such other proper acts as DSHS may deem necessary to secure for DSHS the rights pursuant to this section.
 - (4) The Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of DSHS. The Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.
- c. Commercial Off-The-Shelf. If this Contract involves commercial off-the-shelf products, the below sections (c)(1) through (3) apply.
 - (1) The Contractor shall maintain all title, copyright, and other proprietary rights in the Software. DSHS does not acquire any rights, express or implied, in the Software, other than those specified in this Contract. Contractor hereby warrants and represents to DSHS that Contractor is the owner of the Software licensed hereunder or otherwise has the right to grant to DSHS the

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licensed rights to the Software provided by Contractor through this Contract without violating any rights of any third party worldwide.

- (2) The Contractor represents and warrants that Contractor has the right to license the Software to DSHS as provided in this Contract and that DSHS' use of the Software and documentation within the terms of this Contract will not infringe upon any copyright, patent, trademark, or other intellectual property right worldwide or violate any third party's trade secret, contract, or confidentiality rights worldwide.
- (3) The Contractor represents and warrants that: (i) Contractor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending or threatened based on claims that the Software infringes any patents, copyrights, or trade secrets of any third party, and (ii) that Contractor has no actual knowledge that the Software infringes upon any patents, copyrights, or trade secrets of any third party.

29. Patent and Copyright Indemnification.

- a. The Contractor, at its expense, shall defend, indemnify, and hold DSHS harmless from and against any claims against DSHS that any Product or Work Product supplied hereunder, or DSHS's use of the Product or Work Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Product shall mean any Contractor-supplied equipment, Software, and documentation. The Contractor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by DSHS provided that DSHS:
 - (1) Promptly notifies the Contractor in writing of the claim, but DSHS's failure to provide timely notice shall only relieve the Contractor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to the Contractor; and
 - (2) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant the Contractor sole control of the defense and all related settlement negotiations.
- b. If such claim has occurred, or in the Contractor's opinion is likely to occur, DSHS agrees to permit the Contractor, at its option and expense, either to procure for DSHS the right to continue using the Product or Work Product or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Product or Work Product is enjoined by a court and the Contractor determines that none of these alternatives is reasonably available, the Contractor, at its risk and expense, will take back the Product or Work Product and provide DSHS a refund. In the case of Work Product, the Contractor shall refund to DSHS the entire amount DSHS paid to the Contractor for the Contractor's provision of the Work Product. In the case of Product, the Contractor shall refund to DSHS its depreciated value. No termination charges will be payable on such returned Product, and DSHS will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of four (4) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been installed less than one (1) year, all costs associated with the initial installation paid by DSHS shall be refunded by the Contractor.
- c. The Contractor has no liability for any claim of infringement arising solely from:

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- (1) The Contractor's compliance with any designs, specifications or instructions of DSHS;
- (2) Modification of the Product or Work Product by DSHS or a third party without the prior knowledge and approval of the Contractor; or
- (3) Use of the Product or Work Product in a way not specified by the Contractor;

unless the claim arose against the Contractor's Product or Work Product independently of any of these specified actions.

- d. This Section, *Patent and Copyright Indemnification*, is intended to survive the expiration or termination of the agreement.

- 30. Public Records Act.** The Contractor acknowledges that DSHS is subject to the Public Records Act (Chapter 42.56 RCW) and that this Contract is a public record as defined in Chapter 42.56 RCW. Any specific information that is claimed by the Contractor to be Proprietary Information must be clearly identified as such by the Contractor. "Proprietary Information" means information owned by the Contractor to which the Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws. To the extent consistent with Chapter 42.56 RCW, DSHS will maintain the confidentiality of all such information marked Proprietary Information. If a public disclosure request is made to view the Contractor's Proprietary Information, DSHS will notify the Contractor of the request and of the date that such records will be released to the requester unless the Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the Contractor fails to obtain the court order enjoining disclosure, DSHS will release the requested information on the date specified.
- 31. Publicity.** The Contractor shall not name DSHS as a customer, nor use any information related to this Contract, in any format or media, in any Contractor's advertising or publicity without prior written consent from DSHS.
- 32. Site Security.** While providing services at a DSHS location, the Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations specific to the DSHS location.
- 33. Subcontracting.** Except as otherwise provided in this Contract, the Contractor shall not Subcontract any of the contracted services without the prior written approval of DSHS. Contractor is responsible to ensure that all terms, conditions, assurances and certifications set forth in this Contract are included in any and all Subcontracts. Any failure of Contractor or its Subcontractors to perform the obligations of this Contract shall not discharge the Contractor from its obligations hereunder or diminish DSHS' rights or remedies available under this Contract.
- 34. Termination for Convenience.** DSHS may terminate this Contract in whole or in part when it is in the best interest of DSHS by giving the Contractor at least thirty (30) calendar days' written notice.
- 35. Termination for Default.** The Contracts Administrator may immediately terminate this Contract for default, in whole or in part, by written notice to the Contractor if DSHS has a reasonable basis to believe that the Contractor has:
 - a. Failed to meet or maintain any requirement for contracting with DSHS;
 - b. Failed to protect the health or safety of any DSHS client;
 - c. Failed to perform under, or otherwise breached, any term or condition of this Contract; and/or

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- d. Violated any applicable law or regulation.
- e. If it is later determined that the Contractor was not in default, the termination shall be considered a termination for convenience.

36. Termination or Expiration Procedure. The following terms and conditions apply upon Contract termination or expiration:

- a. The Contractor shall cease to perform any services required by this Contract as of the effective date of termination or expiration.
- b. If the Contract is terminated, the Contractor shall comply with all instructions contained in the termination notice.
- c. The Contractor shall immediately deliver to the DSHS contact named on page one of this Contract, or to his or her successor, all DSHS property in the Contractor's possession. The Contractor grants DSHS the right to enter upon the Contractor's premises for the sole purpose of recovering any DSHS property that the Contractor fails to return within ten (10) calendar days of the effective date of termination or expiration of this Contract. Upon failure to return DSHS property within ten (10) calendar days, the Contractor shall be charged with all reasonable costs of recovery, including transportation.
- d. DSHS shall be liable only for payment required under the terms of this Contract for service rendered up to the effective date of termination or expiration.
- e. DSHS may withhold a sum from the final payment to the Contractor that DSHS determines necessary to protect DSHS against loss or additional liability.
- f. The rights and remedies provided to DSHS in this Section are in addition to any other rights and remedies provided at law, in equity, and/or under this Contract, including consequential and incidental damages.

37. Treatment of Property. All property purchased or furnished by DSHS for use by the Contractor during this Contract term shall remain with DSHS. Title to all property purchased or furnished by the Contractor for which the Contractor is entitled to reimbursement by DSHS under this Contract shall pass to and vest in DSHS. The Contractor shall protect, maintain, and insure all DSHS property in its possession against loss or damage and shall return DSHS property to DSHS upon Contract termination or expiration.

38. Taxes.

- a. Where required by statute or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. DSHS will pay sales or use taxes, if any, imposed on the services and materials acquired hereunder. Contractor must pay all other taxes including without limitation Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. DSHS, as an agency of Washington State government, is exempt from property tax.
- b. Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract in accordance with the requirements of [Title 82 RCW](#) and [Title 458 WAC](#). Out-of-state Contractors must contact the Department of Revenue to determine whether they meet criteria to register and establish an

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account with the Department of Revenue. Refer to WAC 458-20-101 (Tax registration and tax reporting) and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit sales tax, DSHS shall be responsible for paying use tax, if applicable, directly to the Department of Revenue.

- c. All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

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1. Purpose:

- a. The purpose of this Contract is to design, develop, and implement a Background Check System.
- b. DSHS enters into this Contract as the result of DSHS RFP 1524-577
 - (1) DSHS incorporates by reference DSHS RFP 1524-577, including all Amendments and Exhibits.
 - (2) DSHS incorporates by reference, the Contractor's written response to DSHS RFP 1524-577, dated #####.

2. Statement of Work. The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

To be updated with agreement from the successful response.

- a. Complete design and accept development plan with Release definition and preliminary schedule.
 - (1) Project Initiation (Task 1) – A collaborative effort with DSHS to confirm the project schedule, compile project planning documents (e.g., communication, risk management, change management, project roles), and conduct a project kick off meeting.
 - (2) Design, Analysis, and Development Planning (Task 2) – Based on business process and requirements documents included with this Solicitation, work with DSHS staff to review and understand requirements to system functions, assess re-useable components of CHS and document a detailed development plan that includes frequent build releases to production.
 - (3) Implementation and Cut-over planning – Plan technical cut-over procedures and any needed adjustments in business procedures or schedules prior to or just after go-live.
- b. Development Iteration Releases; Go/ No Go to UAT, Training, and Implementation for each release iteration.
 - (1) System development and configuration (Task 3) –Develop or configure needed user and system interfaces. Test interfaces, review and approve results.
 - (2) System testing (Task 4) – Develop test scripts. Load integration database and initialize test system. Execute test scripts, review results, make any needed system adjustments. Work with DSHS to assess readiness for User Acceptance Testing.
 - (3) System installation and configuration (Task 8) – Install software and set up database. Complete any needed system modifications and system configuration. Conduct any needed unit tests.
 - (4) User Acceptance Testing (UAT) (Task 5) – Work with DSHS to define UAT scripts. Train UAT testers. Establish UAT technical environment, including database, to support scripts. Provide technical support during UAT. Adjust system as needed during UAT. Review test results, support DSHS readiness assessment for go-live.
 - (5) Staff training (business and technical) (Task 6) – Provide system training for DSHS/BCCU staff. Provide any needed technical training for DSHS/TSDD (Technology Solution Division) staff.
 - (6) System documentation (Task 7) – update and maintain required system documentation.

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(7) Cut-over and go-live (Task 8) – Implement cut-over plan. Support DSHS staff as the system is implemented statewide.

c. Final Planned Release Implementation complete. Go/ No Go to initiate transition during system stabilization period.

(1) Support during system stabilization period – Provide an extra level of technical and user support during the first 90 days of system operation. Provide quick-turnaround resolution of any technical issues which may arise.

(2) System Stabilization Complete. Go/No Go for Project Closure

(a) Close Project (Task 9 and Task 10) – Complete all system documentation, conduct Post Implementation Review, transition to Operations and Maintenance.

Deliverables outlined in this Contract may change as a result of the Project Plan. Changes shall be mutually agreed to and documented by using a numbered Change Order as described in Section 16 Change Requests.

3. Consideration. Total consideration payable to Contractor for satisfactory performance of the work under this Contract is up to a maximum of \$_____, including any and all expenses, and shall be based on the following Deliverables Payment Schedule.

a. Deliverables Payment Schedule

The price of all deliverables included in this Deliverables Payment Schedule represents an estimated fixed cost.

To be updated with agreement from the successful response.

Deliverable	Deliverable Description	Planned Delivery Date	Price	15% Holdback
Revised Work Plan and Schedule	A revision of the work plan and schedule presented in the bidder's proposal based on discussions with DSHS personnel			
Configured System and Interface Design	A fully configured system design and definition and design for all needed interfaces to external systems			
Integration Test Results	Results of an integration test conducted to demonstrate that the system functions reliably and accurately as configured, including all external system interfaces and successful data conversion.			
User Acceptance Test Results	Results of User Acceptance Testing that demonstrates the system is ready to be used by DSHS staff and external users in production mode.			
Trained Staff	Fully-trained BCCU key staff and			

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Deliverable	Deliverable Description	Planned Delivery Date	Price	15% Holdback
Evaluation	systems administrator(s), as demonstrated by training evaluation results.			
Incident Resolution Reports	Resolution of critical and serious incident reports: Completed work, validation and testing of adjustments or fixes needed to the application or configuration settings that are either critical or serious in nature.			

b. Holdback

DSHS will holdback 15% of each deliverable amount to be paid upon successful completion of the project or in accordance with the performance incentive described in section 5(b).

4. Billing and Payment.

- a. Invoice System. The Contractor shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by DSHS. Consideration for services rendered shall be payable upon receipt of properly completed invoices which shall be submitted to the DSHS Project Manager by the Contractor not more often than monthly. The invoices shall describe and document to DSHS' satisfaction a description of the work performed, activities accomplished, the actual cost in hours to perform the work, and fees. The rates shall be in accordance with those set forth in Section 3, Consideration, of this Contract.
- b. Payment. Payment shall be considered timely if made by DSHS within thirty (30) days after receipt and acceptance by the DSHS Project Manager of the properly completed invoices. Payment shall be sent to the address designated by the Contractor on page one (1) of this Contract. DSHS may, at its sole discretion, withhold payment claimed by the Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract.

5. Performance Monitoring and Incentive

a. Performance Standard Measurement

Impacts and outcomes achieved as a result of the delivery of services may be measured and evaluated by DSHS in a Performance Monitoring Report form. DSHS may evaluate Contractor performance at Phase Gate completion least once a year. An annual evaluation will be conducted during the sixty (60)-day period following the Contract anniversary date, but DSHS may establish, a date, which better accommodates DSHS's particular needs. The evaluation will cover the period ending with an established due date. DSHS may utilize the standardized form and/or supplement the process with special performance factors particular to the specific contractual needs. Each evaluation shall include an assessment of the Contractor's efforts toward achieving DSHS's objectives. The form is designed to aid DSHS in referrals, clarify Contractor's duties and DSHS expectations, and inform Contractors of their performance strengths and weaknesses.

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b. Performance Incentive

DSHS may choose to pay the balance of the contract holdback at the completion of the Phase Gate evaluation. Contractors will be eligible for this performance incentive when:

- (1) At least 8 of the 10 measured criteria on the Performance Monitor Report, attached as Exhibit C, for the Phase Gate are scored 3, Exceeds Expectations.
- (2) The DSHS Project Executive Sponsor approves the Performance Monitor Report.

6. Liquidated Damages.

a. Liquidated Damages – Performance Standard Measurement

Contractor shall perform the Services and maintain the System to meet the Performance Standards as described in Exhibit B. Contractor and DSHS will conduct tests for measuring and certifying the achievement of the Performance Standards as described in Exhibit B. Contractor must implement all testing, measurement and monitoring tools and procedures required to measure and report Contractor's performance of the System and Services against the applicable Performance Standards. Such testing, measurement and monitoring must permit reporting at a level of detail sufficient to verify compliance with the Performance Standards, and will be subject to audit by DSHS. Contractor will provide DSHS with information and access to all information or work product produced by such tools and procedures upon request for purposes of verification.

- (1) The parties agree that any delay or failure by Contractor to timely perform its obligations by the dates in the Work Plan and in accordance with the Performance Standards will interfere with the proper and timely Implementation of the System and Services, to the loss and damage of DSHS. Further, DSHS will incur major costs to maintain the functions that would have otherwise been performed by Contractor. The parties understand and agree that the sections in Exhibit B describe the liquidated damages that the Contractor shall pay to DSHS as a result of nonperformance hereunder by Contractor, that such liquidated damages are enforceable compensatory damages, and that Contractor shall not claim at any time during and after the term that such damages are unenforceable. If Contractor makes such claims, DSHS shall have the right to exercise its remedies in the Agreement, at law and in equity, including but not limited to rescission or termination of the Contract.
- (2) The assessment of liquidated damages shall not constitute a waiver or release of any other remedy DSHS may have under this Agreement for Contractor's breach of this Agreement, including without limitation, DSHS's right to terminate this Agreement. DSHS shall also have the immediate right to require specific performance by Contractor of its obligations which are incurring liquidated damages and DSHS shall also be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Agreement. However, DSHS will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages.
- (3) Amounts due to DSHS as liquidated damages may be deducted by DSHS from any money payable to Contractor under this Agreement, or DSHS may bill Contractor as a separate item therefor and Contractor shall promptly make payments on such bills, in accordance with Section 4 Billing and Payment.

b. Liquidated Damages – Specific

- (1) If the Contractor does not provide the Services by the delivery dates agreed upon between

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DSHS and the Contractor, then the Contractor shall provide a revised delivery date and pay to DSHS as fixed and agreed liquidated damages provided in Exhibit B – Performance Standards,, in lieu of all other damages due to such delay, for each calendar day between the specified delivery date and the date that the Contractor actually provides the Services.

- (2) If the revised delivery date is more than thirty (30) calendar days from the original delivery date, then by written notice to the Contractor, DSHS may immediately terminate the right of the Contractor to provide the Services and DSHS may obtain substitute Services from another Contractor. In this event, the Contractor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all other damages due to such delay, in the amount specified in Exhibit B, until substitute Services are provided, or a maximum of thirty (30) calendar days from the original delivery date, whichever occurs first.

7. Warranty

a. Software Warranty

- (1) Vendor shall warrant and represent that all software will possess and perform the functions and features (i.e. functionality, response times, transaction throughput rates, database update speeds, etc.) described in the documentation and specifications provided to DSHS.
- (2) The Vendor shall warrant all software, materials, equipment, and/or services provided under this solicitation, shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to stipulated requirements and specifications. Warranty shall be void if the customer uses materials, equipment, and/or services for any purpose other than that intended.
- (3) The Background Check System shall be warranted for a total of 12 months from the date released to production. This warranty includes migration to any subsequent version of the software that might become available during the warranty time period.

b. System Warranty

- (1) The Vendor shall warrant the Background Check System is free of defects in the source code and meets all contract requirements. In the event defects covered by the contract are discovered, the Vendor shall fix them at no additional cost to DSHS for a period of 12 months. All defects covered by this contract and reported during the warranty period are included under this provision, even if the repair extends beyond the year.
- (2) At DSHS discretion, the 12 month warranty period can be restarted after a defect is resolved to DSHS satisfaction. The 12 month warranty period begins after successful completion of implementation and DSHS approval of the Vendor's final system documentation submission. At the expiration of the 12 month warranty period, DSHS may elect to extend the warranty period by contract amendment. The Vendor shall provide costs for three, one-year warranties on the Background Check System for services similar to the initial 12 month warranty. The Vendor would guarantee the availability of qualified staff during the extended warranty periods. Price shall be negotiated based on the Vendor's quoted rates.
- (3) During the extended warranty period, DSHS shall communicate regularly with the Vendor to report the nature and type of problems identified. The Vendor shall provide DSHS with a written response to all reported system problems addressing the technical nature of the problem, the proposed fix and the estimated timeframe to resolve the issue.

(4) Warranty Period

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The warranty period shall begin on the first production date after DSHS has formally accepted and signed off of the production system. The warranty will be a 12 month warranty period after each module has been placed in production. The warranty period is provided for no additional charge. Formal acceptance and sign off is defined as:

- (a) Completion of all system documentation and operating procedures
- (b) Completion of all training
- (c) Implementation of the automated environment
- (d) Testing, conversion, installation of each phase of the system and sufficiently monitored to validate all production cycles
- (e) Compliance with all security policies and protocols, and
- (f) Final approval and production implementation by DSHS at the completion of each module.

(5) Warranty Period Support Services

The Vendor must provide during the warranty period support services that include:

- (a) Defect/Bug fixes
- (b) System Updates and upgrades
- (c) Access to technical support

(6) Updated Documentation

The Vendor will provide documentation describing the items addressed by each new release provided to DSHS and including documentation sufficient to inform DSHS as to how to use the changed items.

(7) Support Hours

The Vendor must provide warranty period support Monday through Friday 8 AM – 5 PM PST time for all work days and mutually agreed upon holidays.

8. Withholding Payments.

DSHS shall have the right to withhold any and all payments on invoices received but not yet paid, if any outstanding correction actions exist without penalty or work stoppage by Contractor, until Contractor cures its failures to perform. Upon completion of corrective action, DSHS may pay outstanding invoices less any liquidated damages.

9. Reductions in Payments

Amounts due DSHS by Contractor, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set off by DSHS from any money payable to Contractor pursuant to this Agreement.

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10. Substitute

If, in the reasonable judgment of DSHS, a default by Contractor is not so substantial as to require termination, reasonable efforts to induce Contractor to cure the default are unavailing, and the default is capable of being cured by DSHS or by another resource without unduly interfering with continued performance by Contractor, DSHS may provide or procure the Services reasonably necessary to cure the default.

11. Right to Inspect

The Deliverables and Services being provided by Contractor and its Subcontractors, if any, pursuant to this Agreement shall be available for inspection and review at any time by representatives of DSHS.

12. Right to Assurance

If DSHS, in good faith, has reason to believe that Contractor does not intend to, or is unable to perform or has refused to perform or continue performing all material obligations under this Agreement, DSHS may demand in writing that Contractor give a written assurance of intent to perform. Failure by Contractor to provide written assurance within the number of days specified in the demand (in no event less than five business days) may, at DSHS's option, be the basis for terminating this Agreement under the terms and conditions or other rights and remedies available by law or provided by this Contract.

13. Stop Services.

- (1) DSHS shall have the right at any time during the Agreement to order the Services of Contractor, or any of its Subcontractors or suppliers fully or partially suspended or stopped, if, in the judgment of DSHS, the Deliverables or Services fail to conform to the Specifications and requirements in this Agreement. Contractor shall receive notice of the reasons for such an order.
- (2) In addition, DSHS shall have the right at any time prior to Cutover to order the Services fully or partially suspended for its own convenience. Contractor will receive Notice of the reasons for such an order. The Schedule shall be delayed on a day for day basis to the extent DSHS has issued a suspension order to Contractor and such order is causing delays in completing Services in accordance with the Schedule.

14. Corrective Action Plans.

a. DSHS Request for Corrective Action Plan.

DSHS may require Contractor to submit to DSHS a Corrective Action Plan to correct or resolve a specific event or events causing the finding of a Deficiency or breach or prior to assessment of a liquidated damage.

b. Scope of the Corrective Action Plan.

The Corrective Action Plan required by DSHS under this Section must provide:

- (1) Contractor's detailed explanation of the cause or reasons for the cited Deficiency or breach;
- (2) Contractor's assessment or diagnosis of the cause of the cited Deficiency or breach; and
- (3) Contractor's specific proposal to cure or resolve the Deficiency or breach.

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c. Submission and Approval of Corrective Action Plan.

The Corrective Action Plan must be submitted within ten (10) Business Days following the request for the Corrective Action Plan by DSHS or another date acceptable to DSHS. The Corrective Action Plan shall be subject to the written approval by DSHS.

d. Contractor Responsibility for Performance.

Notwithstanding Contractor's submission and DSHS's acceptance of a Corrective Action Plan, Contractor remains responsible for achieving all Performance Standards and compliance with all other obligations under this Agreement. Further, DSHS's acceptance of a Corrective Action Plan under this Section shall not:

- (1) Excuse Contractor's prior performance;
- (2) Relieve Contractor of its duty to comply with performance standards; or
- (3) Prohibit DSHS from assessing additional remedies or pursuing other appropriate remedies for continued substandard performance.

15. Insurance

The Contractor shall at all times comply with the following insurance requirements.

a. General Liability Insurance

The Contractor shall maintain Commercial General Liability Insurance or Business Liability Insurance, including coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of the parties' performance under this Contract, including but not limited to premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be included as additional insureds.

In lieu of general liability insurance mentioned above, if the contractor is a sole proprietor with less than three contracts, the contractor may choose one of the following three general liability policies but only if attached to a professional liability policy, and if selected the policy shall be maintained for the life of the contract:

Supplemental Liability Insurance, including coverage for bodily injury and property damage that will cover the contractor wherever the service is performed with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees shall be named as additional insureds.

or

Workplace Liability Insurance, including coverage for bodily injury and property damage that provides coverage wherever the service is performed with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insureds.

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or

Premises Liability Insurance and provide services only at their recognized place of business, including coverage for bodily injury, property damage with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Department of Social & Health Services (DSHS), its elected and appointed officials, agents, and employees of the state, shall be named as additional insured.

b. Professional Liability Insurance (PL)

The Contractor shall maintain Professional Liability Insurance or Errors & Omissions insurance, including coverage for losses caused by errors and omissions, with the following minimum limits: Each Occurrence - \$1,000,000; Aggregate - \$2,000,000.

c. Worker's Compensation

The Contractor shall comply with all applicable Worker's Compensation, occupational disease, and occupational health and safety laws and regulations. The State of Washington and DSHS shall not be held responsible for claims filed for Worker's Compensation under RCW 51 by the Contractor or its employees under such laws and regulations.

d. Employees and Volunteers

Insurance required of the Contractor under the Contract shall include coverage for the acts and omissions of the Contractor's employees and volunteers. In addition, the Contractor shall ensure that all employees and volunteers who use vehicles to transport clients or deliver services have personal automobile insurance and current driver's licenses.

e. Subcontractors

The Contractor shall ensure that all subcontractors have and maintain insurance with the same types and limits of coverage as required of the Contractor under the Contract.

f. Separation of Insureds

All insurance policies shall include coverage for cross liability and contain a "Separation of Insureds" provision.

g. Insurers

The Contractor shall obtain insurance from insurance companies identified as an admitted insurer/carrier in the State of Washington, with a Best's Reports' rating of B++, Class VII, or better. Surplus Lines insurance companies will have a rating of A-, Class VII, or better.

h. Evidence of Coverage

The Contractor shall, upon request by DSHS, submit a copy of the Certificate of Insurance, policy, and additional insured endorsement for each coverage required of the Contractor under this Contract. The Certificate of Insurance shall identify the Washington State Department of Social and Health Services as the Certificate Holder. A duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Contract, shall execute each Certificate of Insurance.

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The Contractor shall maintain copies of Certificates of Insurance, policies, and additional insured endorsements for each subcontractor as evidence that each subcontractor maintains insurance as required by the Contract.

i. **Material Changes**

The insurer shall give the DSHS point of contact listed on page one of this Contract 45 days advance written notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give DSHS 10 days advance written notice of cancellation.

j. **General**

By requiring insurance, the State of Washington and DSHS do not represent that the coverage and limits specified will be adequate to protect the Contractor. Such coverage and limits shall not be construed to relieve the Contractor from liability in excess of the required coverage and limits and shall not limit the Contractor's liability under the indemnities and reimbursements granted to the State and DSHS in this Contract. All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

k. **Waiver**

The Contractor waives all rights, claims and causes of action against the State of Washington and DSHS for the recovery of damages to the extent said damages are covered by insurance maintained by Contractor.

16. **Change Requests**

To be updated with agreement from the successful response.

Any communications that either the Project Manager determines to address more than day-to-day concerns, but do not modify the terms of this contract, shall be documented by a written, numbered Change Request. Changes to the contract, which extend the end date, increase the maximum compensation, or involve a change in the scope of work, require an Amendment to the contract. Amendments must be in writing, signed by DSHS and the Contractor. The Change Control Process will be described in detail and agreed upon by both parties in future plans.

a. **Deficiency**

Contractor shall provide changes to correct any Deficiency to DSHS at no additional cost and without need for a Change Request. Any changes, which affect the total maximum consideration or the original end date of this Agreement, will be done via DSHS amendment.

b. **Disagreement.**

If federal or state laws, rules, regulations, policies, or guidelines are adopted, promulgated, judicially interpreted or changed, the effect of which might be to alter the ability of either party to fulfill its obligations under this Agreement, the parties will promptly negotiate in good faith appropriate modifications or alterations to the Agreement and any appropriate Change Requests for amounts resulting from such changes. If DSHS submits to Vendor a Change Request to comply with such laws, rules, regulations, policies, or guidelines, Vendor shall implement changes according to the DSHS submitted Change Request within ten (10) working days of receipt of the Change Request, unless otherwise required by law or mutually agreed to by both parties. Unless there is a substantial

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change in Vendor's burden of performance or cost, Vendor shall work with DSHS to effect the Change Request at no additional cost. Nothing in this Section shall in any manner excuse Contractor from proceeding diligently with the Agreement as changed by any mutually agreed Change Request.

17. Assignment of Staff

- a. The Vendor staff identified in the response to the RFP 1524-577 will work for at least the approximate number of hours described. DSHS may at their sole discretion, without cause, and at any time during the term of the Contract, require immediate replacement of a Vendor's employee(s). Unless authorized in writing in advance by the DSHS Project Manager, subcontracting or substituting proposed Vendor staff/employees with other staff/employees will not be allowed. The DSHS Project Manager shall have the sole discretion to accept or reject such proposal. As a condition to accepting Contractor's proposal for personnel changes, DSHS may require Contractor to compensate DSHS for any training and administrative costs incurred by DSHS in association with such replacement. Such compensation will be in the form of a credit against Contractor's monthly invoice charges to DSHS by Contractor (a) not billing DSHS for hours worked during the first ten (10) Business Days replacement personnel begin work, if the method of compensation agreed to in the Contract is by hourly rates (time and material); or (b) crediting DSHS an amount not to exceed \$5,000 per person replaced, if the method of compensation agreed to in the Contract is by deliverables (fixed cost). If DSHS does not accept Contractor's proposed change and Contractor is unable to provide acceptable personnel to DSHS within ten (10) Business Days after the originally assigned personnel have left, then DSHS may terminate the Contract.
- b. DSHS may assign other vendors and/or DSHS staff to work with the Vendor. The Vendor shall work collaboratively and share knowledge and expertise with DSHS to ensure a successful and timely completion. Vendor shall not supervise DSHS employees. The Statement of Work is not intended to completely describe all work the Vendor would need to complete the deliverables. The Vendor shall control the manner and means and otherwise do all things necessary for or incidental to the performance of work set forth in the Statement of Work.

18. FBI Outsourcing and Security Requirements

- a. In addition to the DSHS Data Security Requirements found in Exhibit A, the Contractor is required to comply with the applicable requirements of the **FBI Criminal Justice Information Services (CJIS) Security Policy** and the **FBI Security and Management Control Outsourcing Standard for Non-Channelers** (FBI CJIS Compact Council, last updated 12/8/2011). These two documents specify the handling of Criminal History Record Information (CHRI) by parties legally permitted to access this information and by contractors acting on behalf of the parties, including those developing or configuring automated systems.

The documents are found at these locations:

<http://www.fbi.gov/about-us/cjis/cjis-security-policy-resource-center/view>

<http://www.fbi.gov/about-us/cjis/cc/current-initiatives/security-and-management-control-outsourcing-standard-for-non-channelers-12-08-11>

- b. DSHS has determined that Contractor's access to CHRI is limited solely for the configuration, data conversion, and installation of a background check system; and that the level of access meets the exemption requirements in Section 10.01, subsections 1 through 6, of the **FBI Security and Management Control Outsourcing Standard for Non-Channelers** (outsourcing standard).

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- c. As required in Section 2.01 of the outsourcing standard, DSHS must request and receive written permission from the Washington State Patrol and Federal Bureau of Investigation prior to allowing contractor personnel access to CHRI. Contractor staff will have no access to DSHS CHS production data during the term of this contract until Contractor complies with FBI vendor security requirements as outlined in this contract.
- d. DSHS will conduct a Washington State name/date-of-birth background check on all contractor staff who will have access to information contained in the Background Check System. Individuals with disqualifying background check information must not be allowed access to CHRI and other data contained in the Background Check System.
- e. When Contractor staff are required to work with CHRI, these conditions, summarized, are required by the Contractor according to the FBI:
 - (1) Ensure each employee is aware of security requirements.
 - (2) Each employee must certify in writing an understanding of the security requirements.
 - (3) Confirm in writing that each employee has certified in writing an understanding of security requirements.
 - (4) Maintain a file of employee certifications for audit.
 - (5) Maintain current records (within 24 hours) of personnel with CHRI access.
 - (6) Notify DSHS within 24 hours of changes to personnel with CHRI access.
 - (7) Develop and maintain written policy of discipline for security violations.
 - (8) Suspend personnel committing security violation (pending investigation).
 - (9) Notify DSHS of security violations within 4 hours.
 - (10) Provide a written report of security violations within 5 calendar days.
 - (11) Maintain site security.

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Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
 - a. “Authorized User(s)” means an individual or individuals with an authorized business requirement to access DSHS Confidential Information.
 - b. “Hardened Password” means a string of at least eight characters containing at least one alphabetic character, at least one number and at least one special character such as an asterisk, ampersand or exclamation point.
 - c. “Unique User ID” means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.
2. **Data Transport.** When transporting DSHS Confidential Information electronically, including via email, the Data will be protected by:
 - a. Transporting the Data within the (State Governmental Network) SGN or Contractor's internal network, or;
 - b. Encrypting any Data that will be in transit outside the SGN or Contractor's internal network. This includes transit over the public Internet.
3. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:
 - a. **Hard disk drives.** Data stored on local workstation hard disks. Access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
 - b. **Network server disks.** Data stored on hard disks mounted on network servers and made available through shared folders. Access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data as outlined in Section 5. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

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- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secured Area. When not in use for the contracted purpose, such discs must be locked in a drawer, cabinet or other container to which only Authorized Users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secured Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secured Area which is only accessible to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media.**
 - (1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
 - (a) Encrypt the Data with a key length of at least 128 bits
 - (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.
 - (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.

Physically Secure the portable device(s) and/or media by

 - (d) Keeping them in locked storage when not in use
 - (e) Using check-in/check-out procedures when they are shared, and

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- (f) Taking frequent inventories
- (2) When being transported outside of a Secured Area, portable devices and media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data.
- (3) Portable devices include, but are not limited to; smart phones, tablets, flash memory devices (e.g. USB flash drives, personal media players), portable hard disks, and laptop/notebook/netbook computers if those computers may be transported outside of a Secured Area.
- (4) Portable media includes, but is not limited to; optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape), or flash media (e.g. CompactFlash, SD, MMC).
- h. **Data stored for backup purposes.**
 - (1) DSHS data may be stored on portable media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition
 - (2) DSHS Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.

4. **Data Segregation.**

- a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.
- b. DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. And/or,
- c. DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,
- d. DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,
- e. DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.
- f. When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.

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- g. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

5. **Data Disposition.** When the contracted work has been completed or when no longer needed, except as noted in Section 3. Protection of Data b. Network Server Disks above, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Server or workstation hard disks, or Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or Degaussing sufficiently to ensure that the Data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

6. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at dshsprivacyofficer@dshs.wa.gov. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
7. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the subcontractor must be submitted to the DSHS Contact specified for this contract for review and approval.

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Exhibit B – Performance Standards

#	Topic	Performance Standard	Liquidated Damages
1.	Deliverables	Contractor must meet the due date for Acceptance of each Deliverable, as indicated in the Work Plan. Contractor's Status Reports will provide information on progress toward meeting these Deliverable dates.	<p>DSHS shall assess \$500 per Day from the Deliverable Acceptance date in the Work Plan until the date each Deliverable receives Acceptance from DSHS.</p> <p>DSHS shall assess \$5,000 per Day from the agreed upon Acceptance date that the System is not Operational in accordance with its applicable Specifications until the System receives Acceptance from DSHS.</p>
2.	Project Status Reporting –	Prior to full Implementation, a weekly Status Report shall be provided to DSHS.	DSHS shall assess \$200 per calendar day for each Day an acceptable weekly Status Report is not received by DSHS by 5:00 P.M. Pacific Standard Time, on the Monday of the week the Status Report is due.
3.	Change Request Management	<p>Contractor must provide, within 10 Days of receipt of a DSHS Change Request and at no cost to DSHS, comprehensive and accurate responses to all DSHS Change Requests. Responses must include proposed solution, cost, Bidder resource needs, State resource needs, and time frames.</p> <p>Contractor must implement DSHS requested and approved Change Requests to the System as approved and prioritized by DSHS.</p> <p>Contractor must provide the status of all outstanding Change Requests and resulting Change Orders including those closed since the last report on the weekly status reports. The report will include original report date, planned completion date, priority, status, actual completion date.</p>	<p>DSHS shall assess \$500 per calendar day for each day an acceptable Change Request response is not timely received. If a Change Request response is received on time but the information reported is inaccurate, unacceptable or incomplete, DSHS shall assess \$500 per calendar day until an acceptable response is received.</p> <p>DSHS shall assess (1) the amount of any fines, penalties, sanctions or disallowances imposed on the State and/or DSHS and (2) any resulting State costs, including but not limited to State staff time and legal fees, or \$1,000 per Day for each day from the date an acceptable Change Request was due until the Contractor receives Acceptance from DSHS, whichever is greater.</p>

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#	Topic	Performance Standard	Liquidated Damages
4.	Compliance with Other Agreement Provisions	The RFP includes Performance Standards which are not listed in the table in this Exhibit B. DSHS shall have the right to notify Contractor of its failures to meet these additional Performance Standards, request a Corrective Action Plan, designate a date by which Contractor must provide a Corrective Action Plan and designate a period of time in which the Contractor must remedy the failure to meet the Performance Standard. Contractor shall provide a Corrective Action Plan within the time period designated by DSHS, fulfill the obligations regarding Corrective Action Plans in the Agreement, and remedy the failure within the time period designated by DSHS	If the Performance Standard failure is not corrected by Contractor within the due date required by DSHS, DSHS shall assess liquidated damages of \$1000 per Day after the due date until the failure is corrected in DSHS's judgment
5.	Uptime and Network Connectivity	The Background Check System must have Uptime 99% of the time 24 hours per day, every day of the year. Scheduled Downtime will not exceed 1 outage per week of a maximum of one hour to be carried out at the time of the week's lowest activity. Additional Downtime needed must be approved by DSHS ahead of time in writing. The week's lowest activity will be agreed to initially by the Contractor and DSHS and then re-determined by review of web transaction statistics six months after full System Implementation.	<p>DSHS shall assess liquidated damages, as specified below, per hour for each hour, or portion thereof, if the System fails to meet these Uptime Performance Standards.</p> <p>\$500/hour 0 to 24 hours beyond the Performance Standard</p> <p>\$1,000/hour 24 to 48 hours beyond the Performance Standard</p> <p>\$1,500/hour > 48 hours beyond the Performance Standard</p>

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#	Topic	Performance Standard	Liquidated Damages
6.	System Maintenance	<p>DSHS will determine the severity level assigned to a Deficiency. All hours referenced below are clock hours. For purposes of this Performance Standard, “respond” shall mean an acknowledgement by email at least and by telephone if possible.</p> <p>Level 1 - Emergency - The System no longer functions.</p> <ul style="list-style-type: none"> Performance Standard for responding to Deficiency call is 30 minutes, includes acknowledging Deficiency, logging Deficiency in the Problem Report database and providing a ticket/tracking number to the caller. Performance Standard for reporting recommended resolution and estimated fix date/time is 2 hours. Performance Standard for correction of Deficiency is 24 hours. <p>Level 2 - Disabled, No Workaround – A problem with software causing critical impact to DSHS’s business operation. No workaround is immediately available and work using the software cannot continue.</p> <ul style="list-style-type: none"> Performance Standard for responding to Deficiency call is 30 minutes, includes acknowledging Deficiency, logging Deficiency in the Problem Report database and providing a ticket/tracking number to the caller. 	<p>DSHS shall assess the liquidated damages as specified below, per 24 hour period for each 24 hour period, or portion thereof, for failure to meet each Level 1 Performance Standard time.</p> <p>\$1000/24 hour period 0 to 72 hours beyond Performance Standard</p> <p>\$2000/24 hour period 73 to 168 hours beyond Performance Standard</p> <p>\$3000/24 hour period 169 to 336 hours beyond Performance Standard</p> <p>\$4000/24 hour period > 336 hours beyond Performance Standard</p> <p>DSHS shall assess the liquidated damages as specified below, per 24 hour period for each 24 hour period, or portion thereof, for failure meets each Level 2 Performance Standard time.</p> <p>\$1000/24 hour period 0 to 72 hours beyond Performance Standard</p> <p>\$2000/24 hour period 73 to 168 hours beyond Performance Standard</p> <p>\$3000/24 hour period 169 to 336 hours beyond Performance Standard</p> <p>\$4000/24 hour period > 336 hours beyond Performance Standard</p>

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#	Topic	Performance Standard	Liquidated Damages														
		<ul style="list-style-type: none">Performance Standard for reporting recommended resolution and estimated fix date/time is 2 hoursPerformance Standard for correction of Deficiency is 48 hours. <p>Level 3 - Disabled, Workaround – A problem with software causing significant impact to DSHS’s business operation. A workaround is available but is unacceptable on a long term basis.</p> <ul style="list-style-type: none">Performance Standard for responding to Deficiency call is 30 minutes, includes acknowledging Deficiency, logging Deficiency in the Problem Report database and providing a ticket/tracking number to the caller.Performance Standard for reporting recommended resolution and estimated fix date/time is 2 hours.Performance Standard for correction of Deficiency is 3 business days. <p>Level 4 - Minor - Non-critical, but having a negative effect on one or more business functions.</p> <ul style="list-style-type: none">Performance Standard for responding to Deficiency call is 30 minutes, includes acknowledging Deficiency, logging Deficiency in the Problem Report database and providing a ticket/tracking number to the caller.	<p>DSHS shall assess the liquidated damages as specified below, per 24 hour period for each 24 hour period, or portion thereof, for failure to meet each Level 3 Performance Standard time.</p> <table><tr><td>\$300/24 hour period</td><td>0 to 72 hours beyond Performance Standard</td></tr><tr><td>\$600/24 hour period</td><td>73 to 168 hours beyond Performance Standard</td></tr><tr><td>\$900/24 hour period</td><td>169 to 336 hours beyond Performance Standard</td></tr><tr><td>\$1200/24 hour period</td><td>> 336 hours beyond Performance Standard</td></tr></table> <p>DSHS shall assess the liquidated damages as specified below, per 24 hour period for each 24 hour period, or portion thereof, for failure to meet each Level 4 Performance Standard time.</p> <table><tr><td>\$100/24 hour period</td><td>0 to 72 hours beyond Performance Standard</td></tr><tr><td>\$125/24 hour period</td><td>73 to 168 hours beyond Performance Standard</td></tr><tr><td>\$150/24 hour period</td><td>169 to 336 hours beyond Performance Standard</td></tr></table>	\$300/24 hour period	0 to 72 hours beyond Performance Standard	\$600/24 hour period	73 to 168 hours beyond Performance Standard	\$900/24 hour period	169 to 336 hours beyond Performance Standard	\$1200/24 hour period	> 336 hours beyond Performance Standard	\$100/24 hour period	0 to 72 hours beyond Performance Standard	\$125/24 hour period	73 to 168 hours beyond Performance Standard	\$150/24 hour period	169 to 336 hours beyond Performance Standard
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\$1200/24 hour period	> 336 hours beyond Performance Standard																
\$100/24 hour period	0 to 72 hours beyond Performance Standard																
\$125/24 hour period	73 to 168 hours beyond Performance Standard																
\$150/24 hour period	169 to 336 hours beyond Performance Standard																

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#	Topic	Performance Standard	Liquidated Damages
		<ul style="list-style-type: none"> Performance Standard for reporting recommended resolution and estimated fix date/time is 5 business days. Performance Standard for correction of Deficiency is 15 business days. <p>Level 5 - Cosmetic - Non-critical and non-impacting to one or more business functions.</p> <ul style="list-style-type: none"> Performance Standard for responding to Deficiency call is 30 minutes, includes acknowledging Deficiency, logging Deficiency in the Problem Report database and providing a ticket/tracking number to the caller. Performance Standard for reporting recommended resolution and estimated fix date/time is 5 business days. Performance Standard for correction of Deficiency is 30 calendar days. 	<p>\$200/24 hour period > 336 hours beyond Performance Standard</p> <p>DSHS shall assess the liquidated damages as specified below, per 24 hour period for each 24 hour period, or portion thereof, for failure to meet each Level 5 Performance Standard time.</p> <p>\$50/24 hour period 0 to 72 hours beyond Performance Standard</p> <p>\$75/24 hour period 73 to 168 hours beyond Performance Standard</p> <p>\$100/24 hour period 169 to 336 hours beyond Performance Standard</p> <p>\$125/24 hour period > 336 hours beyond Performance Standard</p>

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Exhibit C – Performance Monitoring Report

PERFORMANCE MONITORING REPORT STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES				CONTRACT NUMBER		WORK ORDER No.	
DSHS's Contract Manager may complete Performance Monitoring Report at least annually and/or at the end of each project phase gate.		<input type="checkbox"/> Annual <input type="checkbox"/> Phase <input type="checkbox"/> Final		CONTRACTOR'S NAME			
PREPARED BY				CONTRACTOR CONTACT			
DATE PREPARED							
PHONE No.				PERIOD OF PERFORMANCE MEASURED			
E-MAIL				START DATE		END DATE	
SECTION 1 - RATINGS Please rate your experience by placing an "☒" in the appropriate column 1 (Did Not Meet Expectation), 2 (Met Expectation), 3 (Exceeded Expectation), or N/A (Not Applicable)				RATING			
				N/A 1 2 3			
1. Performed statement of work/technical specification requirements to agency expectation				<input type="checkbox"/>			
2. Performed technical work using approved standards, tools and methods				<input type="checkbox"/>			
3. Contractor's overall expertise and use of effective project management skills				<input type="checkbox"/>			
4. Performed work within project schedule				<input type="checkbox"/>			
5. Performed work within project budget				<input type="checkbox"/>			
6. Performed work in compliance with agency policies and procedures.				<input type="checkbox"/>			
7. Demonstrated professional communications				<input type="checkbox"/>			
8. Provided accurate and properly constituted invoicing				<input type="checkbox"/>			
9. Provided timely response and resolution to any problem or issue				<input type="checkbox"/>			
10. Overall satisfaction with the quality of contract work and conduct of the contractor				<input type="checkbox"/>			
				Yes		No	
11. Did Contractor complete all work (projects, deliverables, etc.) specified in the Contract/ Work Order?				<input type="checkbox"/>		<input type="checkbox"/>	
12. Would you hire this Contractor again?				<input type="checkbox"/>		<input type="checkbox"/>	
13. Would you recommend this Contractor?				<input type="checkbox"/>		<input type="checkbox"/>	
SECTION 2 - DSHS'S NARRATIVE (Provide a brief description of the work performed)							
It is the purpose of this Work Order to _____ (e.g., provide, obtain, etc.)							
1.) THE CONTRACTOR WAS VERY GOOD IN THE FOLLOWING AREAS/SKILLS:							
2.) THE CONTRACTOR NEEDS IMPROVEMENT IN THE FOLLOWING AREAS/SKILLS:							
3.) PLEASE ELABORATE ON ANY AREAS IN SECTION 1 ABOVE WITH A RATING OF "1":							
4.) ADDITIONAL COMMENTS, IF ANY ON OVERALL PERFORMANCE OR OTHER APPLICABLE ISSUES:							
(Attach additional sheets if necessary)							
SECTION 3 - CONTRACTOR'S COMMENTS Brief comments/suggestions from the Contractor for DSHS' Contract Manager or DSHS management?							
(Attach additional sheets if necessary)							